

Amendments to the Drawings:

The attached drawing sheet includes changes to Fig. 7. This sheet replaces the original sheet including Fig. 7. In Figure 7, the description within block 120B has been amended from “First PN Generator” to “Second PN Generator”.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS

Claims 1-3, 5, 6, and 12-17 are pending in the present application. All of these claims stand finally rejected. By this amendment, independent claims 1, 12, and 15 have been amended. Support for these amendments may be found in paragraph [0056], as one example, as well as original claim 1. Accordingly no new matter is added by these amendments and Applicant respectfully requests entry. Additionally, FIG. 7 was objected to based on a typographical error. By this amendment, FIG. 7 has been corrected and entry of this amendment is respectfully requested.

Reconsideration of the present objection and rejections is respectfully requested in light of the following remarks.

Drawings

Figure 7 was objected to under 37 CFR 1.84(p)(4) due to a noted typographical error in block 120B. The amendment herein to the drawing sheet containing Figure 7 addresses and obviates this objection.

Claim Rejections – 35 U.S.C. §103

Claims 1-3, 5, 6, and 12-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over McDonough (U.S. Patent no. 6,453,959) in view of Czaja et al. (U.S. Patent No. 6,459,689). Applicant again respectfully traverses this rejection for the following reasons.

Concerning claim 1, the present final Office Action maintains that McDonough teaches, among other things, the claimed “second PN generator to generate a second PN sequence at a second offset, wherein [a] first PN sequence is generated from equations different from equations used to generate the second PN sequence” and “second spreader to receive and spread a second pilot data with the second PN sequence” as featured. Applicant respectfully disagrees with these assertions and submits that McDonough does not teach or suggest all of the elements of claim 1 for the following reasons.

Applicant first notes that arguments presented previously in Applicant’s responses filed October 12, 2010 and March 24, 2011 are maintained and explicitly avowed, but for

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sake of brevity are not fully repeated in this response. Prior to submitting arguments in favor of reconsideration of the present rejections, Applicant first addresses rebuttal arguments presented in the present Office Action in response to Applicant's previous arguments in the remarks immediately following.

In section 5 of the current Office Action, it is argued that the applicant previously argued that McDonough does not disclose making use of more than one pair of stored I and Q polynomial sequences at one time and, thus, only a single spreader is taught or suggested in the reference. Thus, as argued previously by applicant, only one spreader operable the sequences for presently chosen standard at a particular time is needed for transmissions by the transceiver device in McDonough. The Office Action, in response, presents three enumerated reasons in the first paragraph of section 5 as to why this argument is not considered persuasive.

First, the Office Action argues that because claim 1 does not explicitly state the term "sequence at one time", the arguments are therefore not persuasive. This expedient and pedantic treatment of the claims and the argument fails to appreciate the actual import of what Applicant was arguing. Claim 1 recites an apparatus having both a first device transmitting at a first frequency with a first spreader to receive and spread a first pilot data with a first PN sequence, and a second device transmitting at a second frequency with a second spreader to receive and spread a second pilot data with a second PN sequence. The burden of the Patent Office in establishing a *prima facie* case of obviousness still involves a showing that all elements of the claim are taught or suggested by the prior art references. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). By arguing that McDonough only teaches the use of a single pair of stored I and Q. polynomial sequences that a single time of transmission, Applicant is merely pointing out that the Office Action has failed to show where McDonough actually teaches or suggests an apparatus having a second spreader spreading with a second PN sequence (let alone a second PN sequence that also is generated with a different equation that is used to calculate a first PN sequence spread with a first spreader). Rather, the explicitly disclosed transceivers in McDonough (See e.g., col. 11, lines 39-42, FIG. 12 and FIG. 21) for transmission and spreading with a particular and single I, Q PN sequence, whereas the presently claimed apparatus features two devices for

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transmission with respective first and second spreader using not only different PN sequences with different first and offsets, but PN sequences generated using different equations as well. Accordingly, the assertion that Applicant is arguing terms not in the claim language is specious and misses the argument.

Notwithstanding the above, Applicant recognizes that the Office Action appears to reason in the rejection and the second enumerated point in paragraph 5 that because McDonough briefly mentions multiple base stations with different offset data, this also implies that each base station has its own spreader . Thus, ostensibly two spreaders are suggested. Again, however, the present Office Action nonetheless fails to show explicitly how McDonough would teach or suggest first and second spreader devices in an apparatus as claimed in claim 1. In particular, this argument appears to hang solely on exiguous disclosure in McDonough concerning multiple base stations. In particular, the Office Action resorts to description found from line 64 of column 10 to line 2 of column 11. The cited section is discussing the flowchart of FIG. 8, which is a method for generating a plurality of data sequences. Master counter data is received in step 802 and subsequently used to generate first counter data along with known first offset data (See step 804) and second counter data along with known second offset data (See step 808). This allows a device, such as the devices in FIGs. 3 and 4A-E (See col. 10, lines 4-14), to select data from stored data sequences (Steps 808 and 810). In col. 10, lines 65 through col 11, line 1, McDonough refers to the fact that the first and second offset data are associated with first and second base station offsets. The Office Action conflates this teaching of known prior art systems wherein different PN offsets may be used to denote different base stations in a system (See e.g., paragraph [0007] of the present application) with the claimed features of a first device transmitting and generating a first PN sequence at a first offset and a second device transmitting not only with a second PN sequence having a second offset, but also that that second PN sequence is generated with a different equation from the first. The Office Action here is making an unsupported extrapolation that this meager teaching actually teaches first and second spreading using different equations to generate the PN sequences used in the spreading. In actuality, the disclosure of McDonough fails to explicitly teach the specific claimed features of claim 1.

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The final enumerated point in paragraph 5 appears to assert that since lines 39-45 of column 13 in McDonough mention that a mobile station may select an appropriate data sequence, such as IS-95 or IS-2000 sequence, that this somehow either teaches or suggests that the first and second base stations mentioned in cols. 10 and 11 will use different spreaders using different equations to generate the PN sequences used in the respective spreading. Again, this reasoning is an extrapolation beyond the actual teachings of the reference. Merely because a mobile station can store multiple data sequences for different standards does not necessitate that the transmitting base stations will respectively use first and second PN sequences for spreading of first and second pilot data using respectively different equations to generate the PN sequences used in the spreading. Indeed, the only teaching in McDonough of multiple base stations only mentions using different offsets, which is already known as mentioned even in paragraphs [0007]-[0008] of the present application.

Applicant also again submits here that Czaja fails to make up for the shortcomings of McDonough. As argued previously in past responses, Czaja does not teach or suggest a “first PN sequence . . . generated from equations *different* from equations used to generate [a] second PN sequence.” Accordingly, Czaja does not make up for the shortcomings of McDonough and, thus, McDonough and Czaja, either taken separately or combined, do not teach or suggest all of the elements of claim 1. Applicant notes also, in response to arguments in the present Office Action, that although it is understood that the rejection is based on a combination of references, Applicant is merely noting here again that Czaja cannot be relied upon as somehow teaching or suggesting the elements missing from McDonough as discussed above as this reference too does not teach these elements. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claim 1 in light of McDonough and Czaja.

Notwithstanding the above, Applicant has amended claim 1 herein in the interests of furthering prosecution to include the recitation of the “second device to transmit at a second frequency, the second device co-sited with the first device.” Applicant respectfully submits that in addition to failing to teach base stations using different spreading with PN sequences generated with different equations, McDonough also fails to teach that base stations with the

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characteristics of claim 1 would be co-sited; i.e., in a same geographic region. Furthermore, Czaja also fails to teach or suggest this feature, and is, rather, drawn to handoffs resulting from either travel to adjoining cells or hard handoff due to disconnection and encountering disjoint systems, (See e.g., col. 2, lines 11-32) and thus is not indicative of co-sited devices with the features of claim 1. Accordingly, the presently claimed features of claim 1 are not taught or suggested by McDonough or Czaja, either in combination or alone. Accordingly, the cited prior art fails to teach or suggest all the features of amended claim 1, and the rejection should be withdrawn.

With respect to amended independent claims 12 and 15, these claims contain elements similar to those discussed previously with respect to claim 1. Accordingly, these claims are also believed to be allowable over McDonough and Czaja for at least the same reasons as claim 1.

Since Applicant submits that independent claims 1, 12, and 15 are allowable in view of the McDonough and Czaja references, claims 2, 3, 5-6, 13-14, and 16-17 depending from these allowable independent claims are also believed allowable for at least the same reasons, as well as on their own merits.

Applicant also notes here again with respect to claims 6 and 14, in particular, that contrary to the assertions in the Office Action, McDonough does not disclose the particular claimed polynomials. Furthermore, this argument was not addressed in the present Office Action as to where these claimed polynomials are either taught or suggested. Accordingly, the cited references, whether in combination or taken separately, fail to teach or suggest all the claimed elements of these particular dependent claims.

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In view of the foregoing remarks, Applicant respectfully submits that all claims of the present application are in condition for allowance. Reconsideration of all of the claims is respectfully requested and allowance of all the claims is solicited.

Although no fees are believed due with this response, please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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